

06-07-2002



Form PTO-1594 (Rev. 03/01) OMB No. 0651-0027 (exp. 5/31/2002)

U.S. DEPARTMENT OF COMMERCE U.S. Patent and Trademark Office

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Tab settings

To the Honorable Commissioner of Patents and Trademarks: Please record the attached original documents or copy thereof.

1. Name of conveying party(ies): Mesmer & Deleault, PLLC

6.4.02

- Individual(s) Association General Partnership Limited Partnership Corporation-State Other Professional Limited Liability Co.

Additional name(s) of conveying party(ies) attached? Yes No

3. Nature of conveyance:

- Assignment Merger Security Agreement Change of Name Other Release of Assignment

Execution Date: 5/22/02

2. Name and address of receiving party(ies)

Name: Nuby Holding Corporation

Internal Address: c/o Elizabeth A. Bailey, Esq.

Street Address: 1000 Elm Street, P.O. Box 3071

City: Manchester State: NH Zip: 03105-3071

- Individual(s) citizenship Association General Partnership Limited Partnership Corporation-State NH Corporation Other

If assignee is not domiciled in the United States, a domestic representative designation is attached: Yes No (Designations must be a separate document from assignment) Additional name(s) & address(es) attached? Yes No

4. Application number(s) or registration number(s):

A. Trademark Application No.(s)

B. Trademark Registration No.(s) 2217631, 2268342, 2322236, 1729567

Additional number(s) attached Yes No

5. Name and address of party to whom correspondence concerning document should be mailed:

Name: Frank B. Mesmer, Jr., Esq.

Internal Address: Mesmer & Deleault, PLLC

Street Address: 41 Brook Street

City: Manchester State: NH Zip: 03104

6. Total number of applications and registrations involved: 4

7. Total fee (37 CFR 3.41) \$ 160.00

- Enclosed Authorized to be charged to deposit account

8. Deposit account number:

06/06/2002 DBYRNE 00000215-2217631 01 FC:441 02 FC:442

9. Signature.

40.00 OP 75.00 OP

DO NOT USE THIS SPACE

Frank B. Mesmer, Jr.

[Signature]

5-22-02

Name of Person Signing

Signature

Date

Refund Ref: 06/06/2002 DBYRNE 0000117646

Total number of pages including cover sheet, attachments, and document: 11

Mail documents to be recorded with required cover sheet information to: Commissioner of Patent & Trademarks, Box Assignments Washington, D.C. 20231

CHECK Refund Total: \$45.00

TRADEMARK REEL: 002519 FRAME: 0977

HILLSBOROUGH, SS.,
NORTHERN DISTRICT

SUPERIOR COURT
DOCKET NO. 00-E-0280

Richard P. Crowley
v.
Nuby Holdings Corporation

REPORT TO TERMINATE RECEIVERSHIP

NOW COMES Frank B. Mesmer, Jr. Esq., Court-appointed Receiver in the above-referenced matter (hereinafter, the "Receiver"), and sets forth the following:

1. By Order dated September 6, 2000, this Court (Lynn, J.) appointed the Receiver to take possession of the assets of the above Defendant, including intellectual property assets, in behalf of the above Plaintiff.
2. On October 4, 2000, Receiver recorded this Court's Order with the United States Patent and Trademark Office (PTO) to take assignment of Defendant's four trademarks. See attached Notice of Recordation of Assignment Document (Trademark Only), **Exhibit A**.
3. On December 21, 2000, Receiver recorded this Court's Order with the PTO to take assignment of Defendant's patent. See attached Notice of Recordation of Assignment Document (Patent Only), **Exhibit B**.
4. Plaintiff died February 13, 2001.
5. On May 22, 2002, Receiver and Plaintiff's surviving spouse, Mary Crowley, Executrix for the Estate of Richard P. Crowley (the "Estate"), settled with Defendant by signing the attached Release and Settlement Agreement (the "Agreement"), **Exhibit C**.

6. Pursuant to the Terms of the Agreement, Receiver will file this Report to Terminate Receivership with the PTO as evidence that ownership and possession of all intellectual property rights in the patent and trademarks is returned and assigned back to the Defendant, together with:

the attached Recordation Form Cover Sheet – Trademarks Only, **Exhibit D**,
and the attached Recordation Form Cover Sheet – Patents Only, **Exhibit E**.


7. As further outlined in the Agreement, the Receiver and the parties request that this Court terminate this receivership, with prejudice, and extinguish any claim or lien upon the property of the Defendant subject to the receivership.

WHEREFORE, the Receiver respectfully prays this Honorable Court:

- A. To terminate this receivership with prejudice;
- B. To extinguish any claim or lien upon the property of the Defendant subject to the receivership;
- C. And for such other and further orders as this Court deems just and proper.

Respectfully submitted,
Mesmer & Deleault, PLLC

Dated: 5-24-02

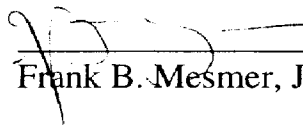


Frank B. Mesmer, Jr., Esq.
41 Brook Street
Manchester, NH 03104
603-668-1971

CERTIFICATE OF SERVICE

I hereby certify that a copy of the within Report has this day been mailed to

Elizabeth A. Bailey, Esq., Frank P. Spinella, Jr., Esq., Mary M. Crowley, Executrix.

 5-24-02

Frank B. Mesmer, Jr., Esq.

RELEASE AND SETTLEMENT AGREEMENT

This Release and Settlement Agreement (hereinafter the Agreement) is made and entered into as of this ___ day of April, 2002, by and among Frank B. Mesmer, Esquire in his capacity as judicially appointed receiver of Nuby Holdings Corporation pursuant to the September 6, 2000 Order of the Hillsborough County Superior Court (Northern District) in the matter of Richard P. Crowley v. Nuby Holdings Corporation, Docket No. 00-E-0280 and in his capacity as acting for and on behalf of Richard P. Crowley and/or the Estate of Richard P. Crowley (hereinafter referred to as "the Receiver"), on the one hand and Nuby Holdings Corporation, a corporation organized under the laws of New Hampshire with a place of business in Hauppauge, Long Island, New York, on the other hand. The purpose of this Agreement is to settle all claims between the Receiver, and/or Richard P. Crowley and/or the Estate of Richard P. Crowley on the one hand and on the other hand Nuby Holdings Corporation, its shareholders, principals, directors, officers, agents, servants, affiliates, subsidiaries, parent companies, successors and assigns, including but not limited to Nuby Interactive, LLC, Arista Enterprises, Inc., Arista Products, Inc., Arista Interactive, LLC, and Arista Interactive, Inc. (hereinafter collectively referred to as "Nuby Holdings Corporation") (collectively, the Receiver and Nuby Holdings Corporation are referred to as "the Parties"). The Parties wish to settle all such above-referenced claims including, without limitation, the following claims (1) all personal and/or derivative claims between or among the Parties in litigation entitled Richard P. Crowley v. Nuby Holdings Corporation, filed in the Hillsborough County Superior Court (Northern District), Docket No. No. 00-E-0280 and (2) any and all claims between or among the Parties that were asserted, or that were threatened to be asserted, by the Receiver in the course of the judicially appointed receivership (collectively, "the Litigation").

Exhibit C

In consideration of the covenants and promises made herein, the Parties agree as follows:

1. Consideration

Nuby Holdings Corporation will pay the Receiver one lump sum payment of Twenty-Seven Thousand Five Hundred Dollars (\$27,500.00) ("Settlement Funds") within two (2) business days upon the Receiver providing written confirmation of the Receiver's completing each of the following:

- (a) executing the within Release and Settlement Agreement;
- (b) filing with the Hillsborough County Superior Court (Northern District) a report that terminates with prejudice the receivership in the matter of Richard P. Crowley v. Nuby Holdings Corporation, Docket No. 00-E-0280 and returns to Nuby Holdings Corporation the possession of any and all Nuby Holdings Corporation property subject to the receivership; and
- (c) filing with the U.S. Patent and Trademark Office any and all necessary documentation to remove any alleged lien on any and all intellectual property of Nuby Holdings Corporation.

The Receiver agrees to hold the above-referenced Settlement Funds in escrow pending (1) an order of the Hillsborough County Superior Court (Northern District) confirming the termination of the receivership and the return to Nuby Holdings Corporation of all Nuby Holdings Corporation property subject to the receivership; and (2) an order of the U.S. Patent and Trademark Office confirming the removal of any liens on Nuby Holdings Corporation's intellectual property.

2. Release and Discharge by the Receiver

The Receiver, as judicially appointed receiver of Nuby Holdings Corporation and on behalf of Richard P. Crowley and/or the Estate of Richard P. Crowley does hereby release and discharge Nuby Holdings Corporation, and any and all of its shareholders, principals, directors, officers, agents, servants, affiliates, subsidiaries, parent companies, successors and assigns, including but not limited to Nuby Interactive, LLC, Arista Enterprises, Inc., Arista Products, Inc., Arista Interactive, LLC, and Arista Interactive, Inc. from any and all actions, causes of action, debts, claims and demands of every name and nature, both at law and in equity, against Nuby Holdings Corporation, and any and all of its shareholders, principals, directors, officers, agents, servants, affiliates, subsidiaries, parent companies, successors and assigns, including but not limited to Nuby Interactive, LLC, Arista Enterprises, Inc., Arista Products, Inc., Arista Interactive, LLC, and Arista Interactive, Inc. which the Receiver, and/or Richard P. Crowley, and/or the Estate of Richard P. Crowley had, now has, or may have, for or by any reason of any cause, damages, costs, loss of service, expenses or compensation, which have heretofore been, or which may hereafter be, sustained by the Receiver, and/or Richard P. Crowley; and/or the Estate of Richard P. Crowley on account of any cause whatsoever from the beginning of the world to the date of this Agreement, but more particularly, without in any manner limiting the foregoing, on account of the claims set forth or that could have been set forth in the Litigation.

It is understood and agreed that this Agreement is made by the undersigned with full knowledge of the same for the purpose of settling any and all claims which the Receiver and/or Richard P. Crowley and/or the Estate of Richard P. Crowley has, ever had, or shall have against Nuby Holdings Corporation, and any and all of its shareholders, principals, directors, officers, agents, servants, affiliates, subsidiaries, parent companies, successors and assigns, including but

not limited to Nuby Interactive, LLC, Arista Enterprises, Inc., Arista Products, Inc., Arista Interactive, LLC, and Arista Interactive, Inc. from the beginning of the world to the date of this Agreement, except as otherwise expressly set forth herein.

3. Miscellaneous

A. Waiver

Failure to exercise any right under this Agreement will not constitute a waiver of such right in the event of a subsequent default.

B. Successors and Assigns; Further Assurances

This Agreement will be binding upon, inure to the benefit of, and be fully enforceable by or against the Parties, their respective executors, heirs, successors, assigns and affiliates for the full term stated in this Agreement. The Receiver agrees from and after the date hereof to do, execute and deliver all acts, documents and other instruments as may be required to carry out the releases and other actions contemplated herein.

C. Amendment

This Agreement may not be modified or amended or any term of provision hereof waived or discharged except in writing signed by the party against whom such amendment modification, waiver or discharge is sought to be enforced.

D. Merger

All previous negotiations, writings and understandings with regard to this Agreement are merged in this Agreement. Any amendment to this Agreement must be in writing, signed by the Receiver and Nuby Holdings Corporation.

E. Governing Law

This Agreement shall be interpreted pursuant to the laws of the State of New Hampshire and its terms may be enforced in any court of law in the State of New Hampshire.

Date: 5-22-02

[Signature]
Frank B. Mesmer, as judicially appointed Receiver of Nuby Holdings Corporation and acting on behalf of Richard P. Crowley and the Estate of Richard P. Crowley

STATE OF NEW HAMPSHIRE
COUNTY OF [Blank], SS

April, 2002

Then personally appeared the above named Frank B. Mesmer, as judicially appointed Receiver of Nuby Holdings Corporation and acting on behalf of Richard P. Crowley and the Estate of Richard P. Crowley and acknowledged the foregoing instrument to be his free act and deed, before me.

[Signature]
Notary Public/Justice of the Peace
My Commission Expires: [Blank]

ACKNOWLEDGEMENT

The undersigned ~~Executor~~/Executrix of the Estate of Richard P. Crowley hereby acknowledges that Frank B. Mesmer is authorized to sign the within Release and Settlement Agreement on behalf of the Estate of Richard P. Crowley and bind the Estate of Richard P. Crowley to this Release and Settlement Agreement.

THE ESTATE OF RICHARD P. CROWLEY

Date: April 30/02

By: [Signature]
Executor/Executrix, Duly Authorized

STATE OF MASSACHUSETTS
COUNTY OF BARNSTABLE SS

April 30 2002

Then personally appeared the above named Mary Madeline Crowley, as
Executor/Executrix of the Estate of Richard P. Crowley and acknowledged the foregoing
instrument to be his/her free act and deed, before me.

Christine M. Pond
Notary Public/~~Justice of the Peace~~
My Commission Expires: 7/12/02



NUBY HOLDINGS CORPORATION

Date: _____

By: _____
Duly Authorized

STATE OF NEW YORK
COUNTY OF _____, SS

April __, 2002

Then personally appeared the above named _____, a duly
authorized representative of Nuby Holdings Corporation and acknowledged the foregoing
instrument to be his free act and deed, before me.

Notary Public/Justice of the Peace
My Commission Expires: _____

STATE OF _____
COUNTY OF _____, SS

April __, 2002

Then personally appeared the above named _____, as
Executor/Executrix of the Estate of Richard P. Crowley and acknowledged the foregoing
instrument to be his/her free act and deed, before me.

Notary Public/Justice of the Peace
My Commission Expires: _____

NUBY HOLDINGS CORPORATION

Date: 5/23/02

By: _____
Duly Authorized

STATE OF NEW YORK
COUNTY OF Suffolk SS

May 23,
April, 2002

Then personally appeared the above named Richard Seifer, a duly
authorized representative of Nuby Holdings Corporation and acknowledged the foregoing
instrument to be his free act and deed, before me.

ELAINE KRAUSS
Notary Public - State of New York
No: 01KR5071973
Qualified in Suffolk County
My Commission Expires Jan 21, 1999

Elaine Krauss
Notary Public/Justice of the Peace
My Commission Expires: 1/21/03